

RECEIVED

1 AUG 14 1995

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
Amendments to the Amateur Service)
Rules Including Amendments For)
Examination Credit, Eligibility)
For A Club Station License,)
Recognition Of The Volunteer)
Examiner Session Manager, A)
Special Event Call Sign System,)
And Self-Assigned Indicator In The)
Station Identification)

WT Docket No. 95-57

DOCKET FILE COPY ORIGINAL

To: The Commission

REPLY COMMENTS OF
THE AMERICAN RADIO RELAY LEAGUE, INCORPORATED

Christopher D. Imlay
BOOTH FRERET & IMLAY, P.C.
1233 20th Street, N. W.
Suite 204
Washington, D. C. 20036
(202) 296-9100

August 14, 1995

No. of Copies rec'd
List ABCDE

029

TABLE OF CONTENTS

	<u>Page</u>
Summary	i
I. Lifetime Operator Licenses in the Amateur Service	2
II. VE Session Manager	7
III. Club Definition and Eligibility Requirements	10
IV. Special Event Vanity Call Sign System	11
V. Self-Assigned Indicators	12
VI. Conclusions	12

SUMMARY

The American Radio Relay League, Incorporated (the League), submits its reply to those comments filed in response to the Notice of Proposed Rule Making (the Notice), FCC 95-173, 10 FCC Rcd. 5014 (1995) in this proceeding. The Notice proposed miscellaneous rule changes to Part 97 of the Commission's rules governing the Amateur Service. Two of those proposed changes are based on petitions for rule making submitted by the League, RM-8418 and RM-8462. The League has had an opportunity to review all of the comments in the Commission's Public Reference Room RIPS file, and on the basis of those few comments, has evaluated the arguments relative to each of the five principal provisions of the Notice.

The comments in this proceeding were mixed with respect to the Commission's proposal to accord examination credit to those whose operator licenses had expired; those opposed generally did not address the League's different proposal for a lifetime operator license. The comments in support acknowledged the benefits of a lifetime operator license.

There were numerous comments opposing the concept of a "VE session manager". Most who opposed the proposal, like the League, noted that there is a benefit in the joint and several liability of three VEs, in terms of the integrity of the volunteer examiner program. The "VE session manager" concept would undermine that entirely, by placing the responsibility for the proper conduct of the examination session in one person. Furthermore, the program as currently configured is working well, and there is nothing stopping the VE teams from informally designating a team liaison or team leader. There is no need for such a regulatory requirement. As one commenter put it, "the system ain't broke, don't try to fix it."

As to the proposal for an increase in the minimum number of members of an amateur club for licensing purposes, the comments generally supported the proposed increase from two to four. There were no significant comments on the other proposals of the Commission. Special event call signs should be implemented as proposed, by the Commission and not by the VECs.

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

RECEIVED
AUG 14 1995

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
Amendments to the Amateur Service)
Rules Including Amendments For) WT Docket No. 95-57
Examination Credit, Eligibility)
For A Club Station License,)
Recognition Of The Volunteer)
Examiner Session Manager, A)
Special Event Call Sign System,)
And Self-Assigned Indicator In The)
Station Identification)

To: The Commission

REPLY COMMENTS OF THE AMERICAN RADIO RELAY LEAGUE, INCORPORATED

The American Radio Relay League, Incorporated (the League), by counsel and pursuant to Section 1.415(c) of the Commission's Rules (47 C.F.R. §1.415(c)) hereby respectfully submits its reply to those comments filed in response to the Notice of Proposed Rule Making (the Notice), FCC 95-173, 10 FCC Rcd. 5014 (1995). The Notice proposed a number of miscellaneous rule changes to Part 97 of the Commission's rules governing the Amateur Service. Two of those proposed changes are based on petitions for rule making submitted by the League, RM-8418 and RM-8462. The League has had an opportunity to review all of the comments in the Commission's Public Reference Room RIPS file, and on the basis of those few comments, has evaluated the arguments relative to each of the five principal provisions of the Notice. In continued support of the League's proposals, and in response to the comments thereon, and

with respect to the other proposals contained in the Notice, the League states as follows:

I. Lifetime Operator Licenses In the Amateur Service

1. The relatively few comments in response to the portion of the Commission's Notice dealing with examination credit for former licensees were mixed, with several in favor of the concept of a lifetime amateur operator license, and several opposed. A good summary of the comments¹ of those in favor of lifetime licensing was provided by M. Philip Salas, AD5X:

Occasionally there are times in an Amateur Radio operator's life where Amateur Radio has to take second place to other priorities. Often while pursuing higher education, beginning a career, and/or starting a family an Amateur Radio operator may find that Amateur Radio is such a low priority at that time that he/she does not renew their license. In addition, at one time Amateur Radio operators had to certify that they had operated some minimum amount of time over recent months in order to renew their licenses. This was often very difficult during times of low Amateur Radio priority. I have known several Amateur Radio operators who fell into this category, lost their licenses, and later came to regret the loss of their license. Additionally, many early Novice licensees lost their licenses when their one year license term expired. I believe that many of these Notice licensees would have eventually obtained higher grade licenses had they the additional time they do now.

In today's fast moving technological age, and especially with the renewal of interest in wireless communications, technology related learning environments such as Amateur Radio offer exciting and painless means for an individual to enhance their technological abilities. And, while many of these former licensees will become older amateur radio operators, they will provide a catalyst to younger potential amateur radio operators.

M. Philip Salas comments, at 1.

¹ See, e.g. the comments of Gary David Gray, WB6HUG; Harry Church, W0KXP/9; Robert A. Scupp, WB5YYX; Fred C. Shetler, K3VMS; George M Kizer; Jerry Webster, KB5VOD; and Steven O. Putman, N8ZR/0.

2. Those opposed² to the Commission's Notice proposal were not necessarily averse to the concept of a lifetime Amateur Operator license. They were opposed, rather, to the different concept of an award of examination credit to a former licensee without administration of an examination. They assumed that the concept entails or encourages the licensing of unqualified persons, and includes some difficult means of verification of license status by VE teams. As stated by Winford H. Guin, W2GLJ:

...I disagree with the proposal to amend the rules for examination credit for the following six reasons: first, it is totally contrary to the requirements of other associations that require a minimal level of expertise to participate in a chosen activity; second, it undermines the historical correctness of procedures consistently followed by the Commission for many years; third, it lends credence to what a large body of citizens as well as Congressional leaders in our country presently perceive as a major ill fostered by governmental agencies; fourth, it is totally inconsistent with an announced purpose of the proposed rule change; fifth, it does not relieve the Ves from any burden and in effect increases the workload of both the Ves and the VECs; and sixth, in the absence of other changes to the rules it introduces lingering inconsistencies in the application of the Commission's rules.

Winford Guin Comments, at 6.

² As noted in the League's comments, and as recognized by certain commenters in this proceeding, there was confusion created by the fact that the Commission's Notice, without any clarification, proposed to accord examination credit to former Amateur Operator License holders, rather than proposing, as the League had requested, a lifetime operator license. The creation of a lifetime operator license would preclude any expiration of the license, and would obviate the need for any examination credit for exam elements not taken. Those who oppose the concept of examination credit for examination elements not taken may not have opposed the concept of a lifetime amateur license, as the justifications for the two issues are quite different.

3. The League's concept of a lifetime amateur operator license is not subject to the same criticisms as is the award of examination credit to former licensees. It is agreed that the Commission's proposed waiver of examination credit for certain classes of amateurs appears, at first blush, somewhat antagonistic to the principle of uniformity in application of Commission rules. All that the League asks is for operator licenses to be awarded for the lifetime of the holder. This is not a revolutionary proposal. As noted by Harrison Leon Church, WOKXP/9:

Pilot's licenses issued by the FAA remain in effect until death or cancellation for cause; why not follow the same pattern for radio (operator's) licenses. To be sure, pilots must renew their medical certification periodically, but radio operators are not normally in control of a vehicle in motion whose operators should have to show continuing capability, not that the present pattern of renewal of radio licenses goes very far to assure that anyway.

Harrison Leon Church comments, at 1.

4. Mr. Church has concisely stated the situation: it makes little sense to require renewal of operator's licenses where the renewal process involves no substantive examination or regulatory or technical certification process anyway. Several commenters such as the National Conference of VECs (NCVEC),³ felt that there is a:

"fundamental difference between an individual who has let his/her license lapse 'years ago' and an amateur who has kept renewing. The difference is that currently licensed amateurs are more up-to-date on FCC rules and technology.

³ The NCVEC represents a number of Volunteer Examiner Coordinators (not including the League) which, in the aggregate, administer something on the order of 35 percent of the examinations in the Amateur Service annually.

Amateurs who have been away from the hobby for long periods of time will find that the amateur service and its regulations have changed drastically. They should undergo some sort of training or refresher course. The examination syllabus provides the needed curriculum.

NCVEC comments, at 8-9.

The League submits that these points are illogical and untrue. There is **no basis** for the statement that a licensee whose amateur license has lapsed is **in any way** different from one who sends in a Form 610 renewal application every ten years, but who is inactive in the Amateur Service. A person who is inactive will, of course, have to spend some time refreshing his or her recollection of the Amateur Service rules when becoming active again in Amateur public service activities. That obligation, however, is not dependent on whether a person has a license that is renewed or one whose license is "reinstated" after an hiatus. Nor is it correct that the rules have changed "drastically" over long periods of time. The operating rules of the Amateur Service, and the technical rules, have changed over the years, but it should be remembered that they were written and rewritten intentionally to provide operational flexibility initially, and it is not an overwhelming task for an inactive amateur to become familiar once again with the amateur rules.

5. The fact is, all licensees have an obligation to comply with the regulations, and to maintain a working knowledge of them. Active amateurs do so periodically, just as inactive amateurs must do when they become active again. Persons holding a lifetime operator license but who become inactive for a period of time and become active again would have to fulfill their obligation to

comply by their own self-training efforts. This is true now of those who have maintained their license status over the years, and merely renew their license with a Form 610 once every ten years but do not use it for a period of time. There is no "refresher" examination required for anyone, nor has there ever been such, and therefore there is no valid objection to a lifetime amateur license based on concern about remaining up to date on rules and the technology of amateur radio.

6. Addressing Mr. Guin's concerns, the League's lifetime operator license proposal has nothing to do with waiving any requirement to demonstrate a certain level of proficiency in order to obtain an amateur operator's license. The League is simply suggesting that once such level of proficiency has been demonstrated, the licensee should be allowed to continue to enjoy, throughout his lifetime, the operator license privileges earned, without having to file, a form 610 every ten years. The process need not, and, properly implemented, would not involve the VECs or the VEs at all; so their workload would not increase.⁴

7. The NCVEC might have some colorable argument if the Commission required examinations every ten years in support of renewal applications, but such has never been required. Even the periodic certifications of proficiency, and the continuing activity

⁴ As stated by George M. Kizer, with respect to former licensees who had previously passed certain examination elements and were previously licensed: "But for the (non)renewal of their former license, they would be licensed today."

requirements⁵ that were once a part of the renewal process are no longer required. There is absolutely no difference between one who renews his or her license but is inactive, and one who allows his or her license to lapse. Creation of a lifetime operator's license (as opposed to the Commission's obviously more controversial proposal to offer examination credit for examinations not taken) would eliminate the regulatory dichotomy that now appertains.

8. Overall, the comments would indicate little support for the Commission's proposal for a waiver of examination credit for expired operator license holders, because of concerns about uniformity of demonstration of proficiency in the examination process. There is support, however, for the concept of a lifetime amateur license. Such would permit operation by one whose station license may have lapsed to operate at the amateur station of another licensee. It would also permit those who, once licensed, but who had become inactive due to other demands on their time, to conveniently once again enjoy the public service benefits of amateur radio.

II. VE Session Manager

9. The Comments are also somewhat split on the subject of a "VE Session Manager", though most are opposed to the proposal in the Notice. The League strongly opposes the session manager

⁵ The rules at one time required that amateurs certify periodically that they had spent certain periods of time operating their stations in the previous license period. These claims, however, were not independently verifiable and depended entirely on the candor of the licensee as a utilitarian renewal criterion.

proposal, as it vitiates the entire concept of joint and several responsibility for the proper administration of the examination, and is completely unnecessary as a regulatory requirement. As the League stated in its Comments:

...there is no reason whatsoever to incorporate such a concept in the rules. There is no indication that the VE teams are burdened by the three-VE concept, and there is no reason at all why the three VEs should not each be held jointly and severally responsible for the proper conduct of each examination administered by that team. To permit a single person to bear the responsibility for the proper conduct of an examination session makes it far easier for an examination session to be compromised, without detection.

...It is impossible to define the problem that the proposed regulation is intended to solve, making the proposal pure surplusage. If the appointment of a "VE Session Manager" is simply consistent with good management practice to insure proper delegation of administrative functions, then a Commission rule is not necessary. Nor is it necessary that the public contact person for a VE test session even be one of the three examiners. The League, for example, uses a "VE Team Contact Person", who is the VE program's local contact with the general public, and who handles the numerous questions that candidates ask before an examination session, such as what time the test session begins, how to get to the test site, etc. This person would also receive Form 610 applications and examination fees from preregistrants. It is hardly necessary for this person to be among the three accredited examiners. As noted above, the League also urges its examiners to designate a "Team Liaison"; the person who receives the confidential examination materials from the VEC for a particular examination session, and serves as the point of contact between the VE team and the VEC, to provide an efficient means of communication. The issue of a VE Session Manager should be a matter subject to the discretion of the VE teams, rather than a regulatory requirement.

ARRL Comments, at 10.

Other comments are in agreement. As noted by Wilton Helm, WT6C, a Volunteer Examiner:

While each VEC is free to require whatever structure they feel necessary upon their teams in order to fulfill their responsibilities (such as the ARRL liaison position, which I have filled at our sessions for several years) it does not seem to me that the FCC needs to be involved in this level of micro-management in order to have an effective test program in place. Specifically, I oppose any change in the rule that places more legal burden on a single person in the team. The present process requires all team members to be aware of and accountable for any actions, taken, and this is as it should be.

Wilton Helm comments, at 1.

Mr. Helm also notes that spreading responsibility for the proper conduct of an examination session is the norm for commercial business practices. The team checks up on each other and avoids "shortcuts or irregularities when each realize that they are jointly and severally liable for the consequences -- that their own license is at stake." Other comments, such as those of Steven O. Putman, N8ZR/0, note that nothing in the present rules prevents any VEC from designating a "session manager", "team leader", "core leader", etc., and states that "(I)t would be redundant and superfluous for the FCC to require designation of such a role". Also, as the Anchorage Amateur Radio Club, Inc. VEC stated in their comments:

Each VEC has designed their program as they wished within established guidelines by the FCC. The VECs have their own record keeping systems indicating who passed and failed, the names of the volunteer examiners (Ves) at each session, elements passed and failed, and money reimbursed...etc. It appears another regulation will be thrust upon the Ves even though the present system is working. Why fix something that isn't broke?

The League absolutely agrees with the Anchorage Amateur Radio Club VEC; there is no need whatsoever to micro-manage the functions of the VECs⁶. The program is an outstanding success; it is undesirable to add regulatory burdens to it. It is again requested that the Commission not adopt any rule changes proposed in the Notice relative to the "VE session manager."

III. Club Definition and Eligibility Requirements

10. There were few comments concerning the proposed definition of clubs. Robert Scupp, WB5YYX, stated that he supported the proposed change from a minimum of two to a minimum of four members of an amateur club for licensing purposes, because it would not severely restrict or limit club station license applicants. Other commenters indicated that there appeared no adverse effect. The worst that could be said from the comments is that several believed that the change would not be sufficient to prevent abuses by those who would form sham clubs in an effort to aggregate call signs.⁷ There may be other means, in addition to the proposed increase in the minimum number of persons necessary to constitute a club, to prevent club call sign abuses, but the proposed change should be enacted in order to make the definition of an amateur club

⁶ The comments of the National Conference of VECs, which support the implementation of the "VE Session Manager", propose detailed regulation of the function of that individual, but ignore the main problem with the vesting of responsibility to just one person, are at variance with the views of the Anchorage Amateur Radio Club VEC and the League, and ignore the arguments made by Anchorage and the League.

⁷ See, e.g. the comments of Frederick O. Maia and Richard A. Stalls.

consistent with the intention of the Commission in returning to club licensing. As stated by the League in comments in this proceeding, it may not be practical for the Commission to return to its previous requirement of submission of organizational documents to the Commission as a condition for club licensing, but it should be recognized that the two-person minimum definition was adopted at a time when that additional requirement was in existence, and the potential for abuse was concomitantly lower. The League requests that the increase in minimum membership for an amateur club should be adopted.

IV. Special Event Vanity Call Sign System

11. There were few comments concerning this proposal as well. Two commenters⁸ suggested that the Commission's definition of events "of special significance to the amateur service community" as a test of when the 1X1 call sign format special event call signs would be issued is an excessively vague criterion. A special fee was proposed by one commenter for the issuance of special event call signs. Frederick O. Maia suggested that the special event call sign issuance should be delegated to the VECs in exchange for a fee. This would be unlawful under the circumstances, as the delegation would be without any statutory authority whatsoever⁹. It

⁸ See the Comments of Richard Stalls, K4KYO and Barry Hampton, WB2KLF.

⁹ Section 4(g)(3)(B) of the Communications Act is the only provision of law that would allow the Commission to delegate the issuance of call signs to private sector volunteers, and that would permit such call signs only to club and military recreation stations. Even that would be on an uncompensated and unreimbursed basis.

is also a blatant effort by Mr. Maia to capitalize, as an enhancement to his commercial ventures, on a service that the Commission is proposing to provide to the Amateur community as a service. The League firmly opposes the commercial proposal of Mr. Maia and recommends that the Commission proceed as it has proposed on this issue. Comments of the Anchorage, Alaska Amateur Radio Club VEC expressed concern that the "1X1" format for special event call signs did not provide a category for Alaskan prefix special event call signs. Indeed, the special event call sign list as proposed is limited to the "1X1" format. However, the list is not limited to application by geographic area, so the Alaskan, Hawaiian and Puerto Rican (or other offshore U.S. territory) amateurs could request any "1X1" format call sign for a special event, just as mainland amateurs could.

V. Self-Assigned Indicators

12. There were almost no comments in the proceeding addressing this proposal. Those who addressed it indicated support, and acknowledgement that the rule change permits greater flexibility.

VI. Conclusions

13. In summary, the comments in this proceeding were mixed with respect to the Commission's proposal to accord examination credit to those whose operator licenses had expired; those opposed generally did not address the League's different proposal for a lifetime operator license. The comments in support acknowledged the benefits of a lifetime operator license. There were numerous comments opposing the concept of a "VE session manager". Most who

opposed the proposal, like the League, noted that there is a benefit in the joint and several liability of three VEs, in terms of the integrity of the volunteer examiner program. The "VE session manager" concept would undermine that entirely, by placing the responsibility for the proper conduct of the examination session in one person. Furthermore, the program as currently configured is working well, and there is nothing stopping the VE teams from informally designating a team liaison or team leader. There is no need for such a regulatory requirement. As one commenter put it, "the system ain't broke, don't try to fix it."

14. As to the proposal for an increase in the minimum number of members of an amateur club for licensing purposes, the comments generally supported the proposed increase from two to four. There were no significant comments on the other proposals of the Commission. Special event call signs should be implemented as proposed, by the Commission and not by the VECs.

Therefore, the foregoing considered, the American Radio Relay League, Incorporated, again respectfully requests that the Commission issue a Report and Order at an early date implementing

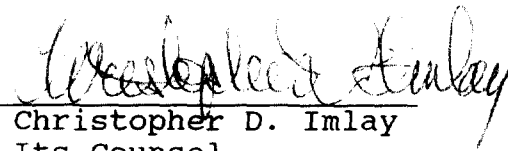
portions of the Notice proposal, with the modifications set forth
in the League's prior comments and these reply comments.

Respectfully submitted,

THE AMERICAN RADIO RELAY
LEAGUE, INCORPORATED

225 Main Street
Newington, CT 06111

By


Christopher D. Imlay
Its Counsel

BOOTH, FRERET & IMLAY
1233 20th Street, N. W.
Suite 204
Washington, D. C. 20036
(202) 296-9100

August 14, 1995

CERTIFICATE OF SERVICE

I, Margaret A. Ford, Office Manager of the law firm of Booth, Freret & Imlay, P. C. do certify that copies of the foregoing REPLY COMMENTS OF THE AMERICAN RADIO RELAY LEAGUE, INC. were mailed via U. S. Mail, postage prepaid, this 14th day of August, 1995, to the offices of the following:

M. Philip Salas - AD5X
Sr. Director - Microwave Engineering
Alcatel Network Systems, Inc.
1225 N. Alma Road
MS 401-119
Richardson, TX 75081-2206

Gary David Gray, WB6HUG
Post Office Box 25453
Anaheim, CA 92825-5453

Harry Church, WOKXP/9
Lebanon, IL 62254-0126

Robert A. Scupp, WB5YYX
648 Marquis Drive NE
Albuquerque, NM 87123-1429

Fred C. Shetler, K3VMS
977 Oak Street
Indiana, PA 15701-1760

George M. Kizer
Sr. Microwave Radio Produce Manager
Alcatel Network Systems
1225 N. Alma Road
MS 401-119
Richardson, TX 75081-2206

Jerry K. Webster, KB5VOD
Manager, Asynchronous Radio Develop.
Alcatel Network Systems, Inc.
1225 N. Alma Road
MS 401-119
Richardson, TX 75081-2206

Steven O. Putman, N8ZR/0
Apt. 2109
6009 Boulder Creek Drive
Hazelwood, MO 63042-3921

Winford H. Guin, W2GLJ
2138 Sonning Drive
Germantown, TN 38138

Dalton H. Tunstill, WB4HOK
President, National Conference of
Volunteer Examiner Coordinators
1215 Dale Drive SE
Huntsville, AL 35801

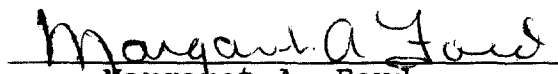
Wilton Helm, WT6C
1963 Oracle Court
Newberry Park, CA 91320

Roger K. Hansen
The Anchorage Amateur Radio Club, Inc.
Post Office Box 101987
Anchorage, AK 99510

Frederick O. Maia, W5YI, President
The W5YI-VEC, Inc. and W5YI Group, Inc.
1020 Byron Lane
Arlington, TX 76012

Richard A. Stalls, KAKY0
917 North Lexington Street
Arlington, VA 22205

Barry Hampton, WB2KLF
88 Longfellow Drive
Colonia, NJ 07067-3031


Margaret A. Ford